

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

EUGENE R. ROBINSON,) CIV. 08-4084-KES
)
Plaintiff,)
)
vs.) ORDER
)
JANET NAPOLITANO, Secretary,)
Department of Homeland Security,)
Transportation Security)
Administration,)
)
Defendant.)

Defendant, Transportation Security Administration (TSA), moves in
limine to prohibit the introduction at trial of questions, evidence, or testimony
containing Sensitive Security Information (SSI) as determined by TSA's final
order in this case. (Docket 217). Plaintiff, Eugene R. Robinson, objected to the
motion. After the motion was addressed during a pretrial conference, Robinson
filed a direct appeal to the Eighth Circuit Court of Appeals regarding TSA's SSI
designations. The Eighth Circuit has now issued its opinion on the issue
entitled *Robinson v. Napolitano*, 689 F.3d 888 (8th Cir. 2012). Consistent with
that opinion, it is

ORDERED as follows:

1. This order prohibits the unauthorized disclosure of SSI as identified in TSA's Second Amended Order, and as clarified by TSA's May 22, 2012, letter to the Court of Appeals, during the trial and to the jury. Questioning, testimony, documents, or any other material presented during

trial will not contain SSI, which has been identified and specifically marked as SSI in TSA's Second Amended Order.

2. The right of access to all materials marked SSI or containing SSI will be limited to TSA, the plaintiff, and counsel for the parties and paralegal, secretarial, and clerical personnel in their employ.

3. Nothing in this order will preclude any disclosure of documents subject to this order to any judge, magistrate, or employee of the court for purposes of this action.

4. Any discussion of SSI at the trial in this matter will be conducted out of the presence of the jury and the public.

Dated February 11, 2013.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE